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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,344

11/03/2003

Andrew L. Cote SR.

1600/163

5277

2101 7590 10/03/2007
BROMBERG & SUNSTEIN LLP
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BOSTON, MA 02110-1618

EXAMINER

MACNEILL, ELIZABETH

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

10/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/700,344

Applicant(s)

COTE ET AL.

Examiner

Elizabeth R. MacNeill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,10-13,16-24,37,38,40-47,49,63-75 and 77-92 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,10-13,16-24,37,40-42,44-47,49,63,65-67,69-75 and 77-92 is/are rejected.
- 7) ☒ Claim(s) 38,43,64 and 68 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 87 is objected to because of the following informalities: claim 87 is redundant because it contains only limitations already cited in the independent claim it depends from. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,4-7,10-13, 16-24,74,75,77-92 are rejected under 35 U.S.C. 102(b) as being anticipated by Lopez (US 5,700,248).

Lopez teaches a medical valve comprising a housing (10) having an inlet (at 95) and an outlet (at 28, bottom of the housing) having a passageway (Fig 10), a plug member (94,36a, 98, see Fig 9) movably disposed within the passageway; a substantially flexible, resilient gland member (95) which supports the seal member, which has a seal section (proximal face) aligned with the inlet face (97, see Fig 10) such that the seal section is swabbable. The plug member occludes the passageway and prevents fluid flow through the valve when the valve is in the closed mode (Fig 10). At least some portions of the plug member are rigid (92).

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3. Claims 37,40-42,44-47,49,63,65-67,69-73 are rejected under 35 U.S.C. 102(b) as being anticipated by Collinson et al (US 5,439,451).

Collinson teaches a housing with inlet end (12), outlet end (14), plug (32), gland (30) wherein the gland normally occludes the opening (94) of the plug (via 56).

Allowable Subject Matter

4. Claims 38,43,64 and 68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. Regarding Collinson, applicant had previously argued that the plug was not a cannula that directs fluid through the valve. This limitation is found in claims 38,43,64, and 68, but in claims 37 or 63.

Conclusion

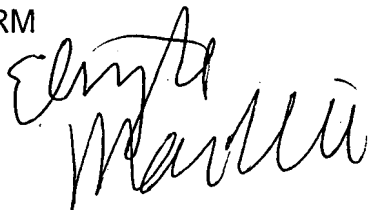
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 9:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

A handwritten signature in black ink, appearing to read "ERM" followed by a stylized name.

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read "Kevin C. Sirmons".